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Virginia Law Register

VOL. 7, N. S.]

AUGUST, 1921.

[No. 4

BUSINESS METHODS IN A LAWYER'S OFFICE.*

Countless ages ago a prehistoric ancestor discovered that a club, heavier at one end than at the other, made a better weapon of offense and defense than his own bare hands. His companions, and in time his enemies, observed his greater efficiency, profited by the discovery, and not only improved on the original idea, but discovered new methods whereby their efficiency as hunters and warriors was enhanced. To such an humble origin must the modern efficiency expert trace the beginning of his calling. The progress through the ages has been slow, and the phenomenal inventions of the past century have been along the lines of new and improved mechanical devices rather than the discovery of better and more efficient methods of handling the work in hand. Only recently has the study of methods become a distinct calling and acquired a name suggesting its purpose. Now, intelligent and progressive manufacturers and merchants everywhere are not only analyzing the methods by which they produce their products, distribute their merchandise and handle office routine, but the study has become a science, and men specialize as efficiency experts. For example, the Metropolitan Life Insurance Company discovered, after painstaking analysis, that by efficient methods a policy could be carried through its various departments in two or three hours instead of as many days, and one of the large Eastern banks, by similar studies, made corresponding reductions in the time and labor necessary to handle checks coming through the mails. The saving in time and in human endeavor through such studies has not been accomplished alone through the installation of labor-saving machinery, but to a very large extent has been effected by the elimination of useless motions and unnecessary exertion. In many factories, moving pictures have been taken of employees

*An address by Wilmer T. Fox of Jeffersonville, Ind., before the Indiana State Bar Association, July 8, 1920.

performing routine tasks—both of the slow and the fast producers—and these pictures have been reproduced at a slower speed. On the average, the quick workman was found to be producing the larger output at about the same expenditure of energy as his slower companion, the gain in production being attributable to a large extent to his elimination of useless motions. As a result of observation and analysis of these pictures, the inefficient workmen were trained until they, too, could perform their tasks at a minimum of exertion with a maximum of production. Closely associated with this investigation of economical methods in factory and office operation has been a corresponding scrutiny of accounting methods, and a challenge of former estimates of the cost of doing business, and of producing or marketing a given article. Some of the results obtained here have been startling to the parties intimately concerned. The field of investigation has proved to be so wide that much remains to be solved in cost accounting, although its general principles are well established.

These methods of the business world are not only profoundly interesting to a lawyer, but are of practical use in every law office, from the largest organization down to the humble office of the young lawyer just entering the profession. They are likewise available, because of a new spirit of co-operation that has gradually been permeating the business world, well illustrated by a story vouched for as an actual occurrence. A candy manufacturer, as a result of a careful study of his own sales organization, found that as a general rule his customers, partly through their own fault and partly through the misdirected zeal of his salesmen, were purchasing candy in large quantities and at infrequent intervals. As a necessary result of this practice the ultimate consumer received much of his candy stale, and became disgusted with the brand. The obvious remedy of suggesting to the retailer the advantage of smaller purchases at more frequent intervals was applied, and the consumers of this particular brand of candy soon became aware of its universal freshness. Up to this point there is nothing unusual in the story, but had the manufacturer, and countless other independent investigators, kept such discoveries to themselves, much of the

progress that has recently been made in business methods would have been impossible, and the material for this paper would have been unavailable. This candy manufacturer was shrewd enough to see that many customers, continually purchasing stale candy, even though under the brand of competitors, would in time turn in disgust to fruit or other lines, and their trade be lost to his own fresh candy. To the amazement of his principal competitor, he invited the latter to lunch, and disclaiming any altruistic motive, made a full disclosure of his discoveries, and placed them at the disposal of his competitor for their common profit. As a result of such disclosures an immense fund of information has accumulated and is available through various books and magazines. Many hours can be devoted to the explanation of various plans of handling office routine and to the relative advantages of each, but such methods as are mentioned will be incidental and subservient to the main purpose—that of arousing lawyers to a greater interest in efficient methods.

In a general way, office equipment and systems should serve three distinct purposes: First, the performance of the task in hand in the quickest time, and with the least effort upon the part of the lawyer and his clerk. Second, the keeping of adequate records of all work performed so that no loss may result by reason of failure to bill for services rendered. And last, the keeping of the book-keeping records by a system that will give the lawyer an adequate idea of his overhead expenses, so that his charges may be so adjusted as to provide an adequate return for his labor and skill after deducting all apparent costs, and some that ordinarily are not considered as expenses of doing business. The performance of a given task in the quickest time and with the least effort upon the part of the lawyer and his clerk is probably the strongest incentive for the installation of modern labor-saving appliances. The most common and useful of these appliances is, of course, the typewriter. Much less common is the dictating machine, which is especially valuable to a lawyer. The present cost of four hundred dollars for a complete outfit has tended to restrict its use, but even at that price it is a paying investment to any lawyer who is at all busy. Its advantages lie in the fact that matter may be dictated at any hour of the day or night, irrespective of whether a stenog-

rapher is present or busy, that there is no limit to the speed at which the matter may be dictated, and that there is no interruption of transcribing during the periods of dictation. Typists soon get accustomed to the new system, turn out more work, and make fewer mistakes. The writer has used the system for six months, and regards the cost as one of the best investments he has made.

Good equipment alone is not sufficient without a well-planned system. All routine work and all possible minor tasks should be delegated to the stenographer. The lawyer's time is too valuable to be taken up with such matters. The use of standardized forms in this connection is of great value, especially if the lawyer has a specialized practice. In such offices the most convenient system is the preparation of standard paragraphs for letters, grouped under various subjects, which paragraphs are numbered and transcribed by the typist without the necessity of dictation or reference other than to the form number.

A great saving in time and improvement in accuracy can be made in drafting deeds, mortgages, standard contracts and the more common forms of court proceedings and orders by the use of standard forms. The writer has, for years, used a system of his own that is especially convenient. In the case of a deed, a standard form is typewritten, and in the blank space for the name of the grantors, county, name of grantees, county, consideration, description, assumption of liens (if any), date of deed, date of acknowledgment and name of persons acknowledging, there is placed a number, beginning with number one and continuing as high as necessary. To make the numbers more conspicuous they are written in red ink. In drafting a deed under such an arrangement it is only necessary to write or dictate the information called for by each numbered blank, and there is no danger through lapse of memory of omitting or crudely wording some necessary provision. In the case of mortgages and many contracts, separate paragraphs can be drafted covering every common situation and, by assigning these paragraphs a number, they may be included or omitted by mere reference to their red ink number. A very valuable collection of contract and court forms may soon be acquired by

making an extra copy of all such documents prepared, running a line of red ink through all names and special features and assigning numbers to these blanks. These forms are filed and indexed according to subjects, and it is surprising how much time they can save, as the drafting anew, or even the mere dictation, of lengthy documents is a tedious process.

Planning of the office work is necessary if it is to be done on schedule and with a minimum of effort. This requires a record of engagements and matters requiring attention in the future. The use of a calendar pad or a diary is satisfactory, but those who have made the matter a study recommend the replacement of these by a small card index file provided with guides for the days of the month and for each month of the year. Slips of paper, on which are jotted down memorandums, automatically come to the attention on the day on which they require action. The advantage of the card index system over calendar pads and diaries is that matters postponed may be re-assigned a new date without the necessity of re-writing the item, the slip being merely taken out and placed at the later date. Whether justly so or not, lawyers are frequently accused of lack of system in this particular.

The filing of documents and correspondence is one of the most exasperating tasks that confronts the lawyer. There are many good filing systems, but all sooner or later break down in some particular. If every paper is permanently filed, the office soon becomes congested with transfer cases. For some time the writer has used a system with a reasonable measure of success, whereby correspondence is filed in three distinct sets of vertical files, all alphabetically arranged. All live matters are placed in a vertical file labeled "Pending Correspondence." As soon as a matter is closed, the file is inspected as to the advisability of keeping all, or part of it, in a permanent file. If the matter is of a trivial nature, it is transferred to a vertical file labeled "Closed—Unimportant." At the beginning of 1920, all 1918 correspondence in this file was destroyed, on the theory that any developments requiring its use would have transpired within the year 1919. All matters of importance are transferred from "Pending Correspondence" to the permanent file of closed

matters, and when the file overflows, are removed to transfer cases. In the case of collections, the copy of the letter closing the transaction is placed in the permanent closed file, and the remaining papers are preserved for one year in the "Closed—Unimportant file. As a complete bookkeeping record is kept of all money transactions, a reasonably sufficient record remains.

All court papers and documents are placed in vertical files, pending matters being alphabetically arranged in a file marked "Pending." When a matter is closed, the papers are destroyed, if unimportant, otherwise they are placed in a numbered folder, and vertically filed in a Permanent File, of which a record is kept in a card index, cross-reference being made to all parties connected with the transaction. There are frequently so many parties interested in litigation that it is impossible to file the document alphabetically unless a memorandum is made of the place assigned to the file and this filed under each name. Assigning the permanent file a number and indexing the parties alphabetically on a card index requires little time, and there is less possibility of the file becoming misplaced.

The average lawyer relegates to secondary importance, if he considers it at all, the keeping of an accurate record of all the work he has done throughout the day. He also gives little consideration to the installation of a system by which he can determine with a reasonable degree of accuracy the value per hour or per day of such services as he renders. Considering the loose methods of accounting that have prevailed until recently in the mercantile world, this condition is not surprising, but the legal profession is too intelligent and progressive to lag behind the business world. Theoretically, a record should be kept of every minute in the day; practically, only the more important matters can be preserved. In large offices employing a bookkeeper, each member of the firm should be provided with a pad of printed blanks, on which he will note down the day and hour and time consumed on each item to which he devotes his attention, and to whom the services are to be charged. These slips will be assorted, posted and filed by the bookkeeper. Such a system is too cumbersome for the small office. A much better record is made by having blanks printed and padded, about six

by nine inches, with a column in which the working hours of the day are divided into fifteen-minute intervals, followed by columns for the nature of the services rendered, to whom charged and the time consumed. A complete record is thus available, and proper charges can be made. In cases where clients question the reasonableness of the fee, such a record of the work done is invaluable. At first it is difficult to remember to keep such a record, but in time it becomes as easy as any other part of the office routine. As a means of refreshing the memory such a record often becomes valuable, and from its use many small services will be billed and collected that otherwise would have been forgotten. In the hurry of busy times, a lawyer frequently forgets extra services he has rendered, but with such a memorandum he cannot do so, and the losses thus avoided amount to a considerable sum in the period of a year.

Every lawyer, for his client's advantage in the trial of cases, if not for his own good, should be trained in the fundamental principles of bookkeeping and accounting. Such a course requires but a short study, and the practicing attorney who cannot attend a business college will be amply repaid for the trouble in taking a correspondence school course in accounting. It is just as important for the lawyer to have an accurate record of his income and expenses as it is for the business man, and by using modern methods the keeping of the books need not be a burden. By the use of the multi-column cash book, whereby the totals for the month on most items and not the individual items are posted, much useless posting is saved, and the labor reduced to a minimum. Through such a system the writer has greatly reduced the use of a journal. In the case of a collection, the total is placed in the total column of the cash book, the fee retained is placed in the special column for that purpose, and the net amount is placed in a column which requires no footing. If remittance is made during the month, thereby closing out the account, he even avoids the necessity of posting by placing a red ink cross in the Ledger Folio Column. The account, though not posted, is nevertheless indexed in the ledger by showing the Cash Book page, so that it may be readily found should occasion require. Such a system represents the

minimum of effort consistent with a complete record. By carrying special columns in the cash book for office expense, law library and any other subdivisions of expense that may suggest themselves, a complete record of these items can be made with little labor by posting the totals of the columns at the end of the month. In this day of universal income taxes, it is well to see that these classifications are made according to government rules to obviate the necessity of separating items not allowable as credits in the income tax return. A lawyer should keep a record by months of his gross income, gross expenses, and net income, for comparison with the income of prior years. In no other way can he know either his present standing or the progress he is making as a money-maker. In the small office, a weekly cash balance is sufficient, though the daily balance should be taken in larger offices, and in each case the trust funds should be deducted in order to demonstrate that they are unimpaired.

The fixing of fees upon an intelligent and demonstrable basis would relieve the lawyer of many disputes and misunderstandings. While it will never be possible to determine fees with the exactness prevailing in the sale of commodities, owing to the fact that consideration must be given to the experience and skill of the lawyer, to the amount involved, to the intricacy of the question presented for trial or determination, to the fact that the case was won, lost or compromised, and to innumerable special circumstances, yet the keeping of the records heretofore recommended, and the application to them of the settled principles of cost accounting will go far towards removing from dispute many charges, especially as to small matters. It is the belief of the writer, based upon an analysis of records he has kept for some time, that the average lawyer greatly undercharges for small services rendered through failure not only to give adequate consideration to the monetary expense of doing business, and through failure to consider the delay in larger matters caused by the interruption, but from complete neglect to take into consideration that over-head in a lawyer's office should include also the time devoted to routine work that cannot be assigned directly to any particular client. Any lawyer who

keeps a record by ten or fifteen minute periods throughout the day will soon discover that, on the average, a very considerable part of his day has been occupied with work that he cannot charge directly to any particular client, but from which all clients derive a benefit. On the average, the lawyer has spent probably fifteen minutes in opening his mail, thirty minutes in dictating miscellaneous letters, fifteen minutes in making his bank deposits and writing checks for office matters, fifteen minutes in reading advance sheets of the reporter system and in keeping up to date with the decisions, an appreciable time in purchasing office supplies and considering and making changes in his office to provide for the growth of his business, an appreciable time in disposing of book agents, and in doing his part in civic and charitable enterprises that require attention during office hours. Where there is only one lawyer in the firm, this expenditure of time on the average probably amounts to two or three hours per day, and may even exceed this figure. In a large law office, where the increased number in the firm permits a more competent clerical and accounting force, with lessened detail burdens on the members of the firm, the total loss of time will be less, but the gain will be offset to some extent by the increased salaries, rent and cost of office equipment and supplies. From the point of compensation the lawyer is selling his time which has a value in proportion to his experience and skill, but in making this sale he is not in the situation of the mechanic who sells so many hours' service, and who receives a net income with no deduction for heavy office expenses. The lawyer is rather in the position of the merchant who sells an article which cost him a definite sum. Before determining the sale price of this article, the merchant estimates the total expense for the year of rent, light, heat, insurance, taxes, salaries, depreciation and obsolescence on fixtures and equipment, allowance for uncollectible accounts, the usual interest or rate of return on the capital invested, and all other costs of doing business. Assuming that these expenses amount to \$20,000.00, and that the probable annual sales amount to \$100,000.00, the overhead amounts to twenty per cent of the sales, to cover which the mark up must be at least that much. Before the days

of profiteering, an article costing one dollar on this basis would probably have been priced at \$1.25, the extra five cents being justified on various grounds.

At the end of the year these estimated costs are compared with the actual cost, and a fair basis arrived at for predicting the overhead of the ensuing year. For the merchant the problem of determining overhead is further complicated by the necessity of keeping separate records of various departments, but this feature will be ignored in order that the general principles of cost accounting may not be obscured by a multiplicity of details. In much the same way a lawyer should estimate his over-head expenses. Assuming that the rent, light, taxes, salaries, supplies and other office expenses of a lawyer amount to \$1,500.00 per year, and that he puts in an eight-hour day except on Saturdays, when he closes at noon, and that he takes a two weeks' vacation, we have 50 working weeks of 52 hours each, making a total of 2,600 working hours over which to distribute the overhead of \$1,500.00. On this basis the lawyer must earn fifty-eight cents per hour in each and every working hour of the day before he can receive one cent of compensation for his own services. A lawyer with such an over-head should be able to withdraw a net income of at least \$3,000.00 per year, which, on the basis of 2,600 working hours per year, will require a charge per hour of \$1.16 for his own services and, including the overhead, a charge of \$1.74 per hour for each and every working hour in the year. Manifestly, he cannot actually charge clients directly with 2,600 hours of work per year, because a considerable portion of each day is spent in necessary labor that cannot directly be traced to any particular client. Assuming that two hours of each day cannot be directly traced, twenty-five per cent of the combined labor and expense charge of \$1.74 must be added to it, bringing the value of the lawyer's services per hour up to \$2.18. The lawyer with such data knows the value of his time, will be more careful in its conservation, and will see that every service bears its proper charge. It does not follow that the lawyer will bill his clients at \$2.18 per hour, or whatever his figure proves to be, as other elements already stated may influence the actual charge. The writer be-

lieves that if a survey were made of a number of representative law offices where a record is kept of all time consumed, that the average loss per day because of unaccounted time would be nearer fifty per cent than twenty-five per cent, but in order to be conservative he has based the assumed figures on the twenty-five per cent loss.

These figures exclude a very important item of expense that is universally included in mercantile cost accounting—the return on the investment. A manufacturer, establishing a new enterprise, not only expects a fair interest return on his invested capital, but if he has an up-to-date system of keeping his books will consider as having been added to that capital not only the cost of the plant and its equipment, but the lost interest on his funds during the six months or year during which his plant was in process of construction, and will add the difference between the fair return on his investment and the actual return during the two to five years during which his enterprise is getting started, and is not earning a fair interest on the investment. After the enterprise is once established, the manufacturer will expect more than a bare interest return on the invested capital, for he will expect compensation for the risk he took of losing part or all his principal, for he is not unmindful of the fact that a large percentage of such enterprises fail.

A lawyer, too, has a large capital invested in his business. On the expensive equipment of law books and office appliances, which depreciate rapidly and which have little value except to a going concern, he should earn, without labor on his part, the customary interest return on the investment plus the annual depreciation in his principal by reason of use and obsolescence. Besides this tangible capital, the lawyer has invested the direct and indirect cost of his education, which is just as much invested capital as is that placed in the factory by the manufacturer. The direct cost of the education is the tuition charges, board, clothing, railway fares and expense of books. The indirect cost should include the salary lost during the years in college (less the cost of board and clothing which has already been charged), and also the difference between the usual salary commanded by young men and that made by the lawyer during

the early years of his practice, with interest on both direct and indirect cost to the time when the lawyer's income becomes sufficient to pay a return on his investment, and pay him an adequate salary for each day's labor. On such a basis, the average lawyer will find that his capital investment is much larger than he suspects. Save for the special study in acquiring an education, the lawyer could retain this capital for investment at current rate of return and, without labor on his part, be receiving the customary interest return. It is but fair for him to earn such a return on the investment in his education and office plant, in addition to compensation for his daily services as a trained and skilled professional workman. In a rough and ready way, lawyers have given consideration to all these matters in fixing their fees, but no harm and much good can come from careful scrutiny and analysis of every item of expense and investment connected with the practice of our profession.